

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JDF CAPITAL INC.,

Plaintiff,

- against -

APPTIGO INTERNATIONAL, INC.,

Defendant.

17-CV-3770 (VSB) (KHP)

ORDER

VERNON S. BRODERICK, United States District Judge:

Plaintiff JDF Capital Inc. commenced this action against Defendant Apptigo International, Inc. on May 18, 2017, alleging breach of contract and unjust enrichment with respect to a promissory note executed by the parties. (Doc. 1.) Before me is Magistrate Judge Katherine H. Parker's unchallenged Report and Recommendation, issued on May 8, 2018 ("Report and Recommendation"), which recommends that I enter judgment for Plaintiff in the amount of \$107,011.33 for Defendant's breach of contract and award Plaintiff \$10,880.00 in attorneys' fees and \$1,351.49 in costs. (*See* Doc. 28, at 1.) Because neither party has objected to the Report and Recommendation, and because I find that Judge Parker's Report and Recommendation is thorough and detailed, I accept and adopt its findings and recommendations in its entirety.

I. Factual and Procedural Background

The facts set forth in the Report and Recommendation are incorporated herein by reference unless otherwise noted. I assume familiarity with the facts and recite here only those facts necessary for an understanding of the issues before me.

Plaintiff filed its complaint against Defendant on May 18, 2017. (Doc. 1.) Because Defendant failed to appear, on July 17, 2017, Plaintiff filed a request to enter default against Defendant. (Doc. 7.) On September 8, 2017, the Clerk of Court issued a certificate of default as to Defendant, (Doc. 8), and Plaintiff filed an Order to Show Cause for Default Judgment on September 29, 2017, (Doc. 9). I held a show cause hearing on November 17, 2017, after which I entered default against Defendant on the issue of liability and referred the case to Judge Parker for an inquest on damages and attorneys' fees. (See Doc. 17.) After receiving supporting papers from Plaintiff and conducting an inquest hearing, (see Docs. 24, 25), Judge Parker issued her Report and Recommendation on May 8, 2018, (Doc. 28). Defendant has not appeared in this litigation and did not file any objections to the Report and Recommendation.

II. Analysis

In reviewing a magistrate judge's report and recommendation, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Parties may raise specific, written objections to the report and recommendation within fourteen days of being served with a copy of the report. *Id.*; *see also* Fed. R. Civ. P. 72(b)(2). When a party submits a timely objection, a district court reviews de novo the parts of the report and recommendation to which the party objected. 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). When neither party submits an objection to a report and recommendation, or any portion thereof, a district court reviews the report and recommendation for clear error. *See, e.g., Lewis v. Zon*, 573 F. Supp. 2d 804, 811 (S.D.N.Y. 2008); *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003); *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

Here, the Report and Recommendation was filed on May 8, 2018. (*See* Doc. 28.)

Although the Report and Recommendation explicitly provided that “Defendant shall have seventeen days from service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure”¹ and “Plaintiff shall have fourteen days from the service of this Report and Recommendation to file written objections pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure,” (Doc. 28, at 13), neither party filed any objections. I therefore review Judge Parker’s thorough and well-reasoned Report and Recommendation for clear error and find none.

III. Conclusion

Accordingly, I adopt the Report and Recommendation in its entirety. Plaintiff shall receive damages in the amount of \$107,011.33, attorneys’ fees in the amount of \$10,880.00, and costs in the amount of \$1,351.49. The Clerk of Court is respectfully directed to enter judgment in favor of Plaintiff and close this case.

SO ORDERED.

Dated: June 12, 2018

New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, flowing style.

Vernon S. Broderick
United States District Judge

¹ As noted in the Report and Recommendation, Federal Rule of Civil Procedure 6(a) and 6(d) allow three additional days for an objection where service is made via (1) mail, (2) leaving with the clerk, or (3) other means consented to by the parties. (Doc. 28, at 13.)